

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
LUBBOCK DIVISION

**George Stewart**, on behalf of himself  
and others similarly situated,

Plaintiff,

v.

**Texas Tech University Health Sciences  
Center**, et al.,

Defendants.

Case No. 5:23-cv-00007-H

**RESPONSE TO UT-AUSTIN DEFENDANTS' OPPOSED MOTION  
FOR TEMPORARY ABATEMENT**

Mr. Stewart has already agreed to extend to the deadline for answering the complaint to May 12, 2023, on account of the Attorney General's unwillingness to represent the defendants or approve outside representation at this stage of the proceedings. Mr. Stewart has also promised counsel for the defendants that he will consent to further extensions of the answer deadline if the defendants are unable to secure legal representation by May 12, 2023. And he will agree to additional extensions of the deadline if the defendants or their counsel want to wait for the pending Supreme Court rulings in *Students for Fair Admissions v. President & Fellows of Harvard College*, No. 20-1199, and *Students for Fair Admissions v. University of North Carolina, et al.*, No. 21-707, before answering the complaint.

Mr. Stewart, however, is opposed to a temporary abatement of the proceedings, which would halt the proceedings in their entirety until the Supreme Court rules in the *Students for Fair Admissions* litigation. Mr. Stewart believes that such an action is premature when the defendants have yet to retain counsel and we do not yet know whether their retained counsel will want to wait for the *SFFA* rulings before answering

the complaint. Mr. Stewart might also wish to amend his complaint or add other plaintiffs to the case between now and the *SFFA* ruling, and he cannot rule out the possibility that he or future plaintiffs might seek a preliminary injunction from this Court. The sounder approach, in our view, is to agree to additional extensions of the answer deadline if the defendants are unable to retain counsel by May 12, 2023, or if defendants' counsel decide that they want to wait for the *SFFA* rulings before filing their answer. We have promised Mr. Hughes and the remaining defendants that we will not oppose further extensions if they need additional time to secure counsel or if their attorneys would prefer to answer the complaint after the soon-to-decided rulings in *Students for Fair Admissions*.

Respectfully submitted.

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Dated: April 9, 2023

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### CERTIFICATE OF SERVICE

I certify that on April 9, 2023, I served this document through CM/ECF upon all counsel of record in this case.

/s/ Jonathan F. Mitchell  
JONATHAN F. MITCHELL  
*Counsel for Plaintiff*  
*and Proposed Class*